

## 21 C.J.S. Courts § 149

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### Courts

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### IV. Terms and Sessions

#### C. Sessions

## § 149. Sessions of court

[Topic Summary](#) | [References](#) | [Correlation Table](#)

### West's Key Number Digest

West's Key Number Digest, [Courts](#)  63, 75, 76

**A court has authority to adjudicate the rights of litigants only at the time prescribed by law for holding the sittings or sessions of a court.**

A court has the authority to adjudicate the rights of litigants only at the time and places prescribed by law for holding court<sup>1</sup> though the parties may acquiesce to having a decision rendered out of session.<sup>2</sup> Although the sittings or sessions of a court must be held at the times prescribed or authorized by law,<sup>3</sup> the governing law may vary in different states, or in the same state at different times, and sometimes is quite broad as to the authority conferred.<sup>4</sup> When the duration of sessions is fixed by constitution or statute, the court has no power to shorten them<sup>5</sup> although it may prolong or extend them.<sup>6</sup>

The sessions or sittings of a court during the term are as a general rule within the control of the court, and it may adjourn its session from day to day or for a longer period<sup>7</sup> provided the adjournment is to a day that is within the time period during which the term can legally continue.<sup>8</sup> Furthermore, a court may be recessed from one day to another of the same term.<sup>9</sup> Indeed, an adjournment from one day to another is a mere recess in the sessions of the court.<sup>10</sup>

Although a court may on the opening day of a term adjourn to a fixed day later in the term,<sup>11</sup> it cannot take a recess until after it is organized for the term.<sup>12</sup>

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Footnotes

- 1 Tex.—Mellon Service Co. v. Touche Ross & Co., 946 S.W.2d 862 (Tex. App. Houston 14th Dist. 1997).
- 2 N.C.—Dalenko v. Wake County Dept. of Human Services, 157 N.C. App. 49, 578 S.E.2d 599 (2003), writ denied, 585 S.E.2d 380 (N.C. 2003).
- 3 Cal.—Hamblin v. Superior Court of Los Angeles County, 195 Cal. 364, 233 P. 337, 43 A.L.R. 1509 (1925).
- 4 N.Y.—In re Bolte, 97 A.D. 551, 90 N.Y.S. 499 (1st Dep't 1904).  
  
Okla.—Collins v. State, 1911 OK CR 72, 5 Okla. Crim. 254, 114 P. 1127 (1911).
- 5 La.—Colonial Homes Realty & Investment Co. v. Sample, 136 La. 195, 66 So. 788 (1914).
- 6 La.—State v. Page, 173 La. 279, 136 So. 609 (1931).
- 7 Ky.—Howard v. Farmer, 268 Ky. 303, 104 S.W.2d 957 (1937).  
  
Okla.—Martinez v. State, 1977 OK CR 291, 569 P.2d 497 (Okla. Crim. App. 1977).
- 8 W. Va.—Mann v. Mercer County Court, 58 W. Va. 651, 52 S.E. 776 (1906).
- 9 Ky.—Howard v. Farmer, 268 Ky. 303, 104 S.W.2d 957 (1937).
- 10 Cal.—McGarvey v. Southern Pac. Milling Co., 5 Cal. App. 2d 604, 43 P.2d 354 (2d Dist. 1935).
- 11 Ark.—State v. Canal Const. Co., 134 Ark. 447, 203 S.W. 704 (1918).
- 12 Ala.—Forbus v. State, 158 Ala. 41, 48 So. 592 (1909).

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